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FEDERAL COMMUNICATIONS COMMISSION  
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In the matter of )  
Implementation of Section 309(j) ) PP Docket  
of the Communications Act ) No. 93-253  
Competitive Bidding )

REPLY COMMENTS OF  
CFW COMMUNICATIONS COMPANY  
DENVER AND EPHRATA TELEPHONE AND TELEGRAPH COMPANY  
LEXINGTON TELEPHONE COMPANY

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I. Qualification of Designated Entities

1. Telephone Companies -

In comments filed with the Commission, we supported consideration of a rural telephone company being classified as a designated entity if it has less than 50,000 access lines. We also identified serious concerns associated with the proposal to use the rural telco/cable cross-ownership standard based on inhabitants in a community. We suggested that if the Commission insists on using a definition of this type, the threshold should be increased to at least 25,000 inhabitants.

Other commentors also expressed concerns over the use of the telco/cable standard focusing on community size, and suggested that overall company size is more relevant. For example, PMN, a group of small South Carolina companies, points out that "any definition based on areas served rather than size of the telephone company would be contrary to the Congressional intent, since it would result in some of the largest telephone companies in the nation being eligible for special auction treatment." PMN advocates a definition based on the Class A/Class B delineation used by the Commission for accounting purposes.<sup>1</sup> Class B companies have revenues of less than \$100,000,000 and would qualify as designated entities based on PMN's proposal.

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<sup>1</sup> PMN, p.8

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OPASTCO also believes the telco/cable standard must be modified to take overall company size into account in order to respond to Congress' mandate and serve the public interest. OPASTCO supports a "two-pronged" definition which bases qualification either on (1) the number of inhabitants in communities served, or (2) total company access lines. In the first part of this definition, OPASTCO recommends a 10,000 inhabitant community as "the minimum acceptable definition of the maximum size of a rural community." In the second part, OPASTCO suggests 10,000 access lines but points out that the Commission has found companies with fewer than 50,000 access lines to be "small telephone companies". OPASTCO concludes that it would support use of the 50,000 access line standard in the second part of its proposed definition.<sup>2</sup>

US Intelco Networks ("USIN") also supports a 50,000 access line standard. According to USIN the "appropriate definition for small, rural telephone companies has already been determined by the Commission as those companies serving fewer than 50,000 access lines."<sup>3</sup>

We agree with these commentators that a definition based solely on the size of communities served is not adequate to comprehensively identify those rural telephone companies that require preferential treatment in order to enjoy the economic opportunity Congress desired. While we do not oppose PMN's proposal, we continue to believe that the 50,000 access line standard is the best and simplest solution for achieving Congress' mandate. Using a 50,000 access line standard rather than 10,000 will increase opportunities for rural companies and their customers to realize the benefits of PCS. A 10,000 line standard is too restrictive.

In our judgment, it would needlessly complicate the rules to establish a "multiple choice" definition using both company size and size of communities served so long as the company size standard is not overly restrictive. A permanent rule based on the size of communities served and their relationship to the area to be licensed will become increasingly difficult to administer. Traditional and new geographic and/or regulatory boundaries (e.g., towns, cities, unincorporated areas, franchise areas, exchanges, LATAs, RSAs, MSAs, BTAs, MTAs) do not parallel one another and may change in significance over time. Still more wireless "serving areas" for future services to be licensed are likely to emerge. Nevertheless, if both company size and community size standards are used, we agree with the OPASTCO approach which would allow qualification if either one or both of the standards is satisfied. We continue to support a 25,000 inhabitant standard for community sizes if a "two-pronged" definition is used.

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<sup>2</sup> OPASTCO, pp. 4-5

<sup>3</sup> USIN, p.4

## II. Cellular Carriers

Our comments asked that non-dominant cellular carriers with less than 5% of nationwide POPs be allowed to bid for any BTA. In particular, we emphasized that companies which otherwise qualify as designated entities should not be restricted from bidding on a BTA if their cellular interests are below this 5% standard.

PMN and OPASTCO also express concerns regarding cellular ownership restrictions as they relate to designated entities. PMN believes that "qualification as a rural local exchange carrier should exempt that carrier from the cellular attribution rule for PCS."<sup>4</sup> OPASTCO claims that "the PCS license-holding restrictions on cellular operators should not be applied to the rural telephone company owners of such operators."<sup>5</sup>

We support the recommendations of PMN and OPASTCO as the minimum exemptions from cellular restrictions necessary to provide some assurance that PCS will reach many rural areas in the foreseeable future. We are equally concerned that rural telephone companies with cellular interests should not be precluded from bidding on PCS licenses in their area and agree with OPASTCO's and PMN's arguments. We believe that our proposal to allow participation in BTA bidding by non-dominant cellular carrier owners (especially those that otherwise qualify as designated entities including rural telephone companies, small businesses and other preferences groups) will provide even greater assurances that rural customers will receive PCS.

## III. Company Profiles

CFW Communications Company (CFW) is a small company operating in rural western Virginia. CFW owns a rural telephone company that has approximately 30,000 access lines and owns a cellular company that is general partner of one RSA covering three rural counties with a population of less than 200,000. CFW also has a limited interest in another cellular RSA and a MSA. CFW has operated in western Virginia since 1897.

Denver and Ephrata Telephone and Telegraph Company (D&E) provides telephone services in south central Pennsylvania, serving approximately 45,000 access lines. D&E has a limited interest in three cellular partnerships. D&E has been in business since 1911.

Lexington Telephone Company, located in central North Carolina, serves just over 26,600 access lines in Davidson County. LTC is also a limited partner in a cellular company serving the Greensboro, North Carolina MSA. LTC has provided telecommunications services since 1896.

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<sup>4</sup> PMN, p. 13

<sup>5</sup> OPASTCO, p. 8

The foregoing Reply Comments are filed on behalf of CFW Communications Company, Denver and Ephrata Telephone and Telegraph Company and Lexington Telephone Company by the undersigned attorney.

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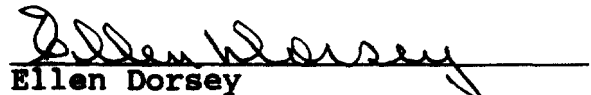
  
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November 30, 1993

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I, Ellen Dorsey, a secretary in the law offices of Gurman, Kurtis, Blask and Freedman, Chartered, do hereby certify that I have on this 30th day of November, 1993, had copies of the foregoing "REPLY COMMENTS OF CFW COMMUNICATIONS COMPANY DENVER AND EPHRATA TELEPHONE AND TELEGRAPH COMPANY LEXINGTON TELEPHONE COMPANY" mailed by first class U.S. Mail, postage prepaid, to the parties shown on the attached list.

  
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